

## ORDINANCE NO. 7413

### ORDINANCE AMENDING CHAPTER 13.12 ENTITLED "STREET USE" BY CREATING A SECTION ENTITLED "PARKLET AND PARKLET CAFÉ" OF THE CODE OF ORDINANCES OF THE CITY OF EAU CLAIRE

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOWS:

**SECTION 1.** *That section 13.12.063, entitled "Parklet and Parklet Café", is hereby created as follows:*

**13.12.063 Parklet and Parklet Café** A. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Restaurant" shall mean an establishment holding an Eau Claire City-County Health Department Retail Food License and city of Eau Claire restaurant license.

2. "Parklet café" shall mean an expansion of a restaurant creating an outdoor dining facility on part of the public street right-of-way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the restaurant adjacent thereto.

3. "Parklet" shall mean an expansion of a business creating an outdoor seating area on part of the public street right-of-way that immediately adjoins the business for the purpose of providing expanded seating and service area for customers of the business adjacent thereto.

B. Permit required. 1. A business may apply to the director of engineering or designee for a parklet or parklet café permit to allow a restaurant to operate a parklet or parklet café. The director of engineering or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the city code of ordinances, or applicable state or federal law.

2. Before a permit may be issued, the application and site plan shall be submitted by applicant and reviewed for approval by the city.

3. Each permit shall be effective for seven (7) months, from April 1 until October 31.

4. The permit shall not be transferable to a new owner.

C. Permit Application. Application for a permit to operate a parklet café shall be submitted to the director of engineering or designee and shall include at least the following information:

1. Completed city application form.

2. Copy of a city restaurant license as required by the city code of ordinances, if applying for a parklet café.

3. Copy of a current certificate of commercial liability insurance in the amount of at least \$1,000,000.00 per occurrence.

4. A layout, drawn to scale, that accurately depicts the dimensions of the existing area and adjacent private property, the proposed location of the parklet or parklet café, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, sidewalk benches, trash receptacles, light poles, and any other sidewalk obstructions, either existing or proposed, within the pedestrian area.

5. Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the parklet or parklet café.

6. Maintenance details, including access panels and how drainage will be provided along the existing gutter.

7. A non-refundable application fee, as stated in the City of Eau Claire Schedule of Fees and Licenses.

D. Permit Fees. The application fees for an initial parklet or parklet café permit and a renewal parklet or parklet café permit, with or without a temporary alcohol license expansion, shall be as stated in the City of Eau Claire Schedule of Fees and Licenses.

E. Standards. The following standards, criteria, conditions, and restrictions shall apply to all parklets and parklet cafés, provided, however, that the director of engineering or designee may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the city code of ordinances, and all applicable state and federal laws. All standards, criteria, conditions, and restrictions are the sole responsibility of the parklet or parklet café permit holder.

1. Parklets and parklet cafés are restricted to the parking lane in the public right-of-way immediately adjacent to the business to which the permit is issued.

2. The parklet or parklet café shall be located on one parking spot and appurtenances thereof shall be a minimum of two (2) feet from the nearest edge of traveled way.

3. The parklet or parklet café shall be located, designed, built, and otherwise conform to the standards as described in the Parklet and Parklet Café Standards adopted here by reference and available on file with the department of engineering.

4. Parklet or parklet cafés that have not been removed after October 31st may be removed by the City at the owner's expense.

5. Parklets and parklet cafés shall be located only in the downtown or Water Street districts, as defined in section 13.12.062, with one parklet or parklet café permitted on each side of a city block. A permittee shall have first opportunity to renew a permit for the same city block if a permit was held by the permittee in the previous permit year, if renewed by April 1.

6. Parklets and parklet cafés, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day.

7. No food preparation, food or beverage storage, refrigeration apparatus, or equipment shall be allowed in the parklet or parklet café.

8. No amplified entertainment shall be allowed in the parklet or parklet café unless authorized as part of a Special Event in accordance with chapter 9.59 of the city code of ordinances.

9. The city, its officers and employees shall not be responsible for parklet or parklet café fixtures that are relocated or damaged.

10. Patio heaters shall not be permitted on the parklet or parklet café.

11. If alcohol is to be served in accordance with subsection F. herein, the parklet café shall be fully enclosed by fencing, railing or other similar means.

12. Use of a parklet or parklet café shall only be permitted during the hours of operation for the operating business, but in no event shall use be permitted between 12:00am and

6:00am. Permittee shall secure the parklet or parklet café in such a manner that the parklet or parklet café cannot be used during hours of closure.

13. The permittee shall not be permitted to have both a sidewalk café permit and a parklet or parklet café permit for the same business.

14. Dogs shall be permitted in a parklet café only upon approval of the city-county health department.

F. Alcohol licensing and service of alcohol beverages.

1. Alcohol may be served only at a parklet café subject to the following conditions:

a. The permittee has a valid and appropriate retail alcohol beverage license for the principal premises.

b. The retail alcohol beverage license premises description includes the parklet café in the description of the licensed premises as an extended area through a temporary license expansion.

c. The retail alcohol beverage license permits the sale of the type of alcohol beverages to be served in the parklet café.

d. Alcohol beverages are sold and served by the licensee or licensee's employees and sold or served only to patrons seated at tables in the parklet café.

e. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances and regulations.

f. Alcohol beverages may only be served at the parklet café when food service is available through the licensed establishment.

g. The permittee shall be responsible for monitoring the parklet café area to prevent underage persons from entering or remaining in the parklet café, except when underage persons are allowed to be present on the licensed premises under applicable laws.

h. The permittee shall not allow patrons of the parklet café to bring alcohol beverages into the parklet café from another location, nor to carry open containers of alcohol beverages about in the parklet café area, nor to carry open containers of alcohol beverages served in the parklet café outside the parklet café area.

i. The area of the restaurant from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the parklet café area.

j. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the parklet café area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the parklet café between 11:00 p.m. and 7:00 a.m.

k. The permittee shall post one or more signs in a clearly visible location regarding the requirements for alcohol beverages in the parklet.

l. The permit and license holder shall be required to annually apply for a temporary expansion to serve alcohol in the parklet café if alcohol service is desired by the permit and license holder in subsequent years and is subject to annual review and approval by the city.

G. Liability and insurance. By obtaining the parklet or parklet café permit, the permittee agrees to indemnify, defend, save, and hold harmless the city, its officers and employees from any and all claims, liability, lawsuits, damages, and causes of action which may arise out of the permit or the permittee's activity in the parklet or parklet café. The permittee shall sign an indemnification agreement provided by the city prior to operation of the parklet or parklet café.

1. The permittee shall maintain in full force and effect commercial general liability insurance in the amount of at least \$1,000,000.00 per occurrence for bodily injury and property damage, with the City of Eau Claire named as an additional insured, and shall show that the coverage extends to the area used for the parklet or parklet café.

2. The permittee shall provide the city with an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations. Thereafter a certificate of insurance shall be provided to the city with a renewal application each year.

G. Revocation or suspension. The approval of a parklet or parklet café permit is conditional at all times. A parklet or parklet café permit may be revoked or suspended by the director of engineering or designee where necessary based on a violation of this ordinance, to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, emergency situations, or to comply with the city code of ordinances, or to comply with applicable state or federal law. An alcohol license suspension for the temporary license expansion area shall occur in the event a parklet or parklet café permit is revoked or suspended.

H. Penalty. The penalty for violation of this section shall be a forfeiture of not less than \$100.00 or more than \$500.00 per day for each violation, together with the costs of prosecution.

SECTION 2. That the City of Eau Claire Schedule of Fees and Licenses is hereby revised to reflect an annual fee of:

\$150 for a parklet; and

\$250 for a parklet café.

(SEAL) President Terry L. Weld

(SEAL) Interim City Manager David A. Solberg

(ATTESTED) City Clerk Carrie L. Riepl

First Reading March 23, 2021

Final Reading April 13, 2021

Adopted April 13, 2021

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